

**EXHIBIT B**

**Engagement Letter**

# AlixPartners

September 4, 2024

Jonathan Ramsden  
Chief Financial Officer  
Big Lots, Inc.  
4900 E Dublin Granville Rd  
Columbus, OH 43081

## **Re: Agreement for Consulting Services**

Dear Mr. Ramsden:

This letter, together with the attached Schedule(s) and General Terms and Conditions, sets forth the agreement ("Agreement") between AlixPartners, LLP ("AlixPartners"), and Big Lots, Inc. and certain of its subsidiaries and affiliates (the "Company") for the engagement of AlixPartners to provide consulting services to the Company.

All defined terms shall have the meanings ascribed to them in this letter and in the attached Schedule(s) and General Terms and Conditions. The Company and AlixPartners are each a "Party," and together the "Parties."

## **Objectives and Tasks**

The responsibilities of AlixPartners may include, but not be limited to, the following:

- Assist the Company with development of its rolling 13-week cash receipts and disbursements forecasting, including through the use of a tool designed to provide on-time information related to the Company's liquidity.
- Support the Company's financial and treasury functions including, without limitation, by assisting in cash management strategies, planning, general accounting, financial reporting information management and strengthening the core competencies of the finance organization.
- Work with management of the Company to obtain covenant relief from its bank lenders and other creditors.
- Work with the Company to identify, implement, and monitor both short-term and long-term liquidity generating initiatives.
- Assist the Company with analyzing performance improvement and cash enhancement opportunities, including assisting with cost reduction initiatives, operational improvement initiatives, accounts receivable management and accounts payable process improvement opportunities.
- Provide assistance to the Company's management in connection with the Company's development of its revised business plan, and such other related forecasts as may be required by the Company's lenders in connection with negotiations or by the Company for other corporate purposes.
- Assist the Company and its management in the design, negotiation, and implementation of a restructuring strategy designed to maximize enterprise value, taking into account the unique interests of all key constituencies.
- Work with management to develop a restructuring strategy, evaluate, negotiate, and implement restructuring initiatives and strategic alternatives.
- Assist the Company with its communications and/or negotiations with outside parties including the Company's stakeholders, banks and potential acquirers of Company assets and advisors to the foregoing.

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- Assist the Company's management and its professionals specifically assigned to sourcing, developing, negotiating and implementing any financing, including DIP and exit financing facilities, in conjunction with a plan of reorganization and the overall restructuring.
- Assist the Company in preparing for and filing a bankruptcy petition for relief under the United States Bankruptcy Code, coordinating and providing administrative support for the proceeding and developing the Company's disclosure statement and plan of reorganization, or other appropriate case resolution, if necessary.
- Advise the Company on the financial reporting requirements attendant to a bankruptcy filing, including but not limited to court orders, court-approved transactions, emergence, and fresh-start reporting.
- Assist management in preparing and testing accounting systems in order to perform appropriate accounting cut-off in the event that the Company needs to file for bankruptcy.
- In connection with a bankruptcy, assist with the preparation of documents such as a disclosure statement, a plan of reorganization, a liquidation analysis, the statements of financial affairs, schedules of assets and liabilities, potential preference analysis, claims analyses, monthly operating reports and other regular reports required by the Bankruptcy Court.
- Manage the claims and claims reconciliation processes.
- Conduct eDiscovery, document review and forensic data services required in conjunction with any document requests or other discovery.
- Provide testimony and litigation support services regarding any of the matters to which AlixPartners is providing services.
- Meet with lenders, unsecured creditors' committee and other statutory or unofficial committees, if any, in connection with any bankruptcy filing, as necessary, to provide general process updates and other information as may be requested by the Company.
- Provide post confirmation services, as may be necessary, to support the chapter 11 plan and emergence.
- Assist the Company with such other matters as may be requested by the Company that fall within AlixPartners' expertise and that are mutually agreeable.

## Staffing

Holly Etlin and Kent Percy will be responsible for the engagement, supported by the AlixPartners personnel necessary to complete the services provided under the Agreement. In addition, AlixPartners has relationships with, and may periodically use, independent contractors with specialized skills and abilities to assist in this engagement.

We will periodically review the staffing levels to determine the proper mix for this assignment. We will only use the necessary staff required to complete the requested or planned tasks.

## Timing and Fees

AlixPartners will commence this engagement on or about September 4, 2024 after receipt of a copy of the executed Agreement accompanied by the retainer, as set forth on Schedule 1.

The Company shall compensate AlixPartners for its services, and reimburse AlixPartners for

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expenses, as set forth on Schedule 1.

In the event the Company files for protection under the United States Bankruptcy Code, the Company will promptly apply to the Bankruptcy Court to obtain approval of AlixPartners' retention and retainer nunc pro tunc to the date of filing. AlixPartners acknowledges its retention and the terms thereof are subject to Bankruptcy Court approval.

\* \* \*

If these terms meet with your approval, please sign and return a copy of the Agreement and wire transfer the amount to establish the retainer.

We look forward to working with you.

Sincerely yours,

DocuSigned by:  
  
87183CC51FEE486...

Holly Etlin  
Partner & Managing Director

DocuSigned by:  
  
A685BCB4D70E4DB...

Kent Percy  
Partner & Managing Director

For and on behalf of AlixPartners, LLP

Agreement and acceptance confirmed

DocuSigned by:

By:   
FF2E51629539412...

Its: EVP, Chief Financial and Administrative Officer

Dated: 9/5/2024 | 6:19 AM PDT

For and on behalf of Big Lots, Inc.

# AlixPartners

## Schedule 1

### Fees and Expenses

**1. Fees:** AlixPartners' fees will be based on the hours spent by AlixPartners personnel at AlixPartners' hourly rates, which are:

Partner / Partner & Managing Director	US \$1,200 – US \$1,495
Senior Vice President / Director	US \$825 – US \$1,125
Vice President	US \$640 – US \$810
Analyst/ Consultant	US \$230 – US \$625

AlixPartners generally reviews and revises its billing rates semi-annually.

AlixPartners' total fees include any retainer, break fee, completion fee, or success fee payable hereunder, if any (together, the "Fees"). In the event of a Chapter 11 filing, the Fees shall also include the Case Management Platform usage fees set forth in the Bankruptcy Related Matters Section of the General Terms and Conditions.

**2. Completion Fee:** AlixPartners shall earn a completion fee of up to \$1,500,000 (the "Completion Fee"). The fee will be broken out in two tranches, the first tranche in the amount of \$1,000,000 will be earned upon the earliest to occur of any of the following: (i) confirmation of a chapter 11 plan of reorganization, (ii) a sale of all or substantially all of the Company's assets under section 363 of the Bankruptcy Code or otherwise, (iii) the consummation of any material recapitalization, debt exchange or debt restructuring of the Company, or (iv) consummation of one or more transactions, in any form, that effectively transfers a significant portion of the business as a going concern to another entity or entities or that results in a change in structure of the Board of Directors. The second tranche in the amount of \$500,000 will be awarded at the discretion of management, driven upon the basis of a successful restructuring. The first tranche of the Completion Fee shall be due and payable immediately when the success objective or objectives determined as described above have been achieved. The second tranche will be determined and awarded upon the successful emergence from bankruptcy.

**3. Expenses:** In addition to the Fees set forth in this Schedule, the Company shall pay directly, or reimburse AlixPartners upon receipt of periodic billings, for all reasonable out-of-pocket expenses incurred in connection with this engagement, such as travel, lodging and meals, and any technology costs associated with secure storage and handling of client data not otherwise covered by this Agreement.

**4. Retainer:** Upon execution of the Agreement, the Company will pay AlixPartners a retainer of USD \$750,000. In the event of a Chapter 11 filing, any balance of the retainer will be held as an evergreen retainer, pending approval of the Bankruptcy Court.

**5. Payment:** AlixPartners will submit invoices bi-weekly for services rendered and expenses incurred. All invoices shall be due and payable immediately upon receipt. In the event of a Chapter 11 filing, AlixPartners will submit monthly invoices, or otherwise in the manner required by the Bankruptcy Court. All invoices will be due and payable immediately upon receipt, subject to Bankruptcy Court approval, as applicable.

# AlixPartners

## Data Protection Schedule Description of Transfer

### 1. Categories of data subjects whose personal data is transferred

Employees / Members / Contractors of Client  
 Customers / Consumers / Clientele / Prospects of Client  
 Other:

### 2. Categories of personal data transferred

Background Check Data (Criminal History, Drug Test Results, References, etc.)  
 Biometric Data (Facial Recognition, Fingerprints, Voice Recording, etc.)  
 Browsing Data (Cookies, Website History, IP Address, etc.)  
 Contact Information (Contact Details, Address, Email Address, Phone Numbers, etc.)  
 Education and Skills (Academic Transcripts, Degrees, Languages, Training, etc.)  
 Employment Information (Compensation, Job Title, Personnel Number, Workers Comp, Office Location, etc.)  
 Family Information (Children, Parents, etc.)  
 Financial Personal Information (Bank Accounts, Credit Card Numbers, etc.)  
 Genetic Information (Genetic Sequence)  
 Government Identifiers (National Identification Number, SSN, Driving License, etc.)  
 Personal Identifiers (Name, Age, Date of Birth, Race, Video/Photo, Signature, etc.)  
 Professional Experience & Affiliations (Trade Union Membership, Qualifications/Certifications, etc.)  
 Social Media Data (Social Media Accounts, Social Media History, etc.)  
 Travel and Expense (Travel History, Expense Details, etc.)  
 User Account Information (Account Age, Account Number, Account Password, etc.)  
 Workplace Welfare (Harassment Reports, Disciplinary Action, etc.)  
 Other:

### 3. Frequency of data transfers

The frequency of the transfer will be continuous (multiple transfers).

### 4. Processing by AlixPartners

- 4.1. Nature of processing: The nature of processing will include receiving, storing, analyzing, transmitting to appropriate parties, and disposing of Personal Data.
- 4.2. Purpose of the data transfer and further processing: The purpose of processing is to provide the services described in the agreement above.
- 4.3. The period for which the personal data will be retained, or if the period is unknown, the criteria used to determine the period: AlixPartners will process Personal Data for the duration of the engagement.
- 4.4. Transfer to Sub-processors: Sub-processors may process Personal Data for the duration of the engagement life cycle and for the purposes specified above. See <https://www.alixpartners.com/policies/subprocessors/> for a list of sub-processors.

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These General Terms and Conditions ("Terms") are incorporated into the Agreement to which these Terms are attached. In case of conflict between the wording in the letter and/or schedule(s) and these Terms, the wording of the letter and/or schedule(s) shall prevail.

### **Section 1. Company Responsibilities**

AlixPartners' performance of the services in accordance with the terms of the Agreement are dependent on the Company's timely and effective completion of the following responsibilities to the extent they are reasonably necessary for such performance: (a) provide reliable and accurate information, materials, documentation; and (b) make decisions, gain relevant approvals, and co-operate with AlixPartners as is reasonably necessary or desirable for the performance of the services in connection with this Agreement.

### **Section 2. Nature of the Services of AlixPartners**

AlixPartners is not an accounting firm or a law firm. AlixPartners is providing advisory and consulting services only and will not (i) unless expressly stated otherwise in the Agreement, make management decisions for the Company, (ii) perform accounting audits, or (iii) provide legal services or advice. While AlixPartners may, from time-to-time, suggest options that may be available to the Company, the ultimate decision as to such options rests with the Company, and AlixPartners makes no promise or guarantee, nor gives any representations, about the outcome of the Company's matters and/ or any decision it makes.

### **Section 3. Billing, Payments, and Taxes**

**Billing and Payments.** All invoices for Fees and expenses are due as set forth on Schedule 1 (the "Due Date") via wire transfer to AlixPartners' bank account, as shown on the invoice. All amounts invoiced are based on services rendered and expenses incurred to date, and are not contingent upon future services or Work Product (as defined below), or the outcome of any case or matter.

There will be no administrative fees or costs charged to AlixPartners for the use of e-billing, procurement, factoring, or other similar services in connection with our invoicing (e.g. Ariba, SAP, Tymetrix, Brightflag, etc.) of this engagement. If the Company requests or requires AlixPartners to use the Company's or a third party's e-billing, procurement, factoring, or other similar services in connection with our invoicing and there are fees charged or discounts applied in connection with AlixPartners' use of such services, the Company agrees to reimburse AlixPartners for those fees or discounts as a reimbursable expense under the Agreement.

**Taxes.** AlixPartners' Fees are exclusive of taxes or similar charges, which shall be the responsibility of the Company (other than taxes imposed on AlixPartners' income generally). If AlixPartners' Fees are subject to any taxes, such as State sales tax or Value Added Tax, then AlixPartners will include such taxes on its invoices as separate line items.

### **Section 4. Use of Work Product**

"Work Product" means all information, reports, materials, software and other work product that AlixPartners creates or develops specifically for the Company in the performance and/or preparation of the services that constitutes, contains and/or comprises AlixPartners'

advice, observations, assessments, evaluations, theories, formulas, methodologies, opinions, judgement, endorsements, recommendations and/ or proposals.

"Affiliate" means any entity that, directly or indirectly, controls, is controlled by or is under common control with the referenced entity, including the referenced entity's parent. In this definition, control means the power to direct the management and policies of an entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise.

Except as disclosure may be required by law, regulation or regulatory process, or as allowed below, the Company agrees that the Work Product shall only be used by the Company internally solely for its own benefit and use consistent with the purpose of the services under the Agreement. The Company acknowledges and agrees that AlixPartners' only duty of care in respect of the services and the Work Product is to the Company.

The Company may distribute the Work Product on a strictly confidential and non-reliance basis to its auditors, accountants, legal advisors, controlled and controlling Affiliates ("Authorized Recipients") provided that the Company understands and agrees that AlixPartners does not accept any liability to any of the Authorized Recipients and AlixPartners sole duty of care is to the Company. The Company shall be responsible for any damages resulting from a breach of the terms of the Agreement by its Authorized Recipients.

Except as described above and without AlixPartners' prior written approval (not to be unreasonably withheld or delayed), no part of AlixPartners' Work Product may be (i) disseminated, reproduced, quoted, or referenced with attribution to AlixPartners or an unnamed consultant or (ii) disseminated to third parties without AlixPartners' prior written consent and such third parties executing AlixPartners' Report Access Letter.

### **Section 5. Confidentiality**

**Nondisclosure of Confidential Information.** Each Party shall keep confidential all confidential information, in whatever form, relating to a Party or its finances, accounts, business, technologies, products, customers or suppliers obtained from the other Party during the performance of AlixPartners' services hereunder (the "Confidential Information"), and neither Party will disclose any Confidential Information to any other person or entity, except as permitted below. Confidential Information includes the terms of the Agreement, non-public confidential and proprietary data, plans, reports, schedules, drawings, accounts, records, calculations, specifications, flow sheets, computer programs, source or object codes, results, models, or any work product relating to the business of either Party, its subsidiaries, distributors, affiliates, vendors, customers, employees, contractors, and consultants.

**Disclosure of Confidential Information.** The foregoing is not intended to prohibit, nor shall it be construed as prohibiting, either Party from making such disclosures of Confidential Information that either Party reasonably believes are required by law or any regulatory requirement

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or authority, including AlixPartners' disclosures to clear client conflicts and as may be required by FedRBank P2014 in unrelated bankruptcy matters.

Either Party may disclose Confidential Information to its Affiliates, and its and their directors, officers, employees, partners, subcontractors, auditors, accountants, agents and legal advisors (collectively, "Representatives"), but only if such Representatives reasonably need to know the Confidential Information as it relates to the services being provided under the Agreement and such Representatives are bound by similar confidentiality obligations. Each Party is responsible for any breach of these confidentiality obligations by any of its Representatives.

**Marketing.** AlixPartners will have the right to disclose to any person that it provided services to the Company and a general description of such services, but AlixPartners shall not provide any other information about its involvement with the Company.

**Exclusions.** The confidentiality provisions of the Agreement will not apply to any information that (a) is or becomes generally available to the public through no action by either Party or its Representatives (as defined below), (b) are or become available to either Party on a non-confidential basis from a source that such Party reasonably believes is lawfully permitted to so provide, or (c) is independently developed by either Party without the use of the Confidential Information of the other Party.

**Return or Destruction of Information.** At the conclusion of the Agreement, the receiving Party and its Representatives may, and will if so requested in writing by the disclosing Party, promptly return to the disclosing Party all tangible Confidential Information provided to the receiving Party and its Representative and will destroy/delete all summaries, notes, studies, compilations or written or electronic copies and records that reflect any of the Confidential Information prepared by either Party or any of its Representatives. Such destruction/deletion (or return/delivery) will be confirmed in writing. The foregoing obligation to return or destroy documents shall not extend to (i) documents the receiving Party is obligated to retain pursuant to any applicable law, rule, regulation, policy or by a competent authority, or (ii) any computer files or documents created as a result of automatic archiving and backup procedures provided that any such retained documents shall remain subject to the Agreement.

**Expiration.** The obligations of the Parties under this section shall survive the end of any engagement between the Parties for a period of three (3) years.

## Section 6. Intellectual Property

"Intellectual Property" means patents, registered designs, registered trademarks and applications and the right to apply for any of the foregoing, copyright, design rights, topography rights, database rights, brands, trademarks, utility model rights, rights in the nature of copyright, rights in inventions and all other industrial, commercial and intellectual property rights and all other rights or forms of protection having equivalent or similar effect to any of the foregoing arising anywhere in the world.

"AlixPartners Intellectual Property" means any Intellectual Property that AlixPartners has created, acquired or developed prior to the date of and/or separately from the Agreement and any enhancements, developments and/or

improvements to any of the foregoing by and/or on behalf of AlixPartners during the course of, and/or in performance of, the Agreement.

"Company Intellectual Property" means any Intellectual Property that AlixPartners creates specifically for the Company in the performance of the services that is not AlixPartners Intellectual Property.

As between the Parties, the Company's Intellectual Property shall be owned by the Company upon full payment of all Fees and expenses due to AlixPartners and to that effect, subject to the payment of such Fees and expenses, AlixPartners hereby assigns its rights and interests in and the Company's Intellectual Property to the Company.

As between the Parties, the AlixPartners Intellectual Property shall be owned by AlixPartners and except to the extent explicitly agreed hereunder the Company shall not acquire any title or interest in and to the AlixPartners Intellectual Property. AlixPartners hereby grants to the Company a non-exclusive, non-transferable, irrevocable, royalty-free, worldwide license to use the AlixPartners Intellectual Property only to the extent necessary to enable the Company to use and benefit from the results of the services, including the Company's Intellectual Property, subject to and in accordance with the terms of the Agreement.

## Section 7. Limitation of Liability

THE ALIXPARTNERS PARTIES SHALL NOT BE LIABLE TO THE COMPANY, OR ANY PARTY ASSERTING CLAIMS ON BEHALF OF THE COMPANY, EXCEPT FOR DIRECT DAMAGES FOUND IN A FINAL DETERMINATION TO BE THE DIRECT RESULT OF THE GROSS NEGLIGENCE, BAD FAITH, SELF-DEALING OR INTENTIONAL MISCONDUCT OF AlixPartners. THE AlixPartners PARTIES SHALL NOT BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, LOST PROFITS, LOST DATA, REPUTATIONAL DAMAGES, PUNITIVE DAMAGES OR ANY OTHER SIMILAR DAMAGES UNDER ANY CIRCUMSTANCES, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE AlixPartners PARTIES' AGGREGATE LIABILITY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, IS LIMITED TO THE AMOUNT OF FEES PAID TO AlixPartners FOR SERVICES UNDER THE AGREEMENT (OR IF THE CLAIM ARISES FROM AN ADDENDUM TO THE AGREEMENT, UNDER THE APPLICABLE ADDENDUM) (THE "LIABILITY CAP").

Nothing in the Agreement, including the Liability Cap, shall be deemed to limit or exclude AlixPartners' liability for (a) death or personal injury caused by negligence, (b) gross negligence, fraud or willful misconduct, or (c) to the extent such claim cannot be capped or limited by applicable law.

AlixPartners is not responsible for any third-party products or services separately procured by the Company. The Company's sole and exclusive rights and remedies with respect to any such third-party products or services are against the third-party vendor and not against AlixPartners, whether or not AlixPartners is instrumental in procuring such third-party product or service.

## Section 8. Indemnification

The Company shall indemnify, hold harmless and defend AlixPartners and its Affiliates and its and their partners,

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directors, officers and employees (collectively, the "AlixPartners Parties") from and against all claims (including without limitation claims from Authorized Recipients), liabilities, losses, expenses and damages ("Loss") incurred or suffered arising out of or as a result of the performance by AlixPartners of the services or its obligations hereunder. The indemnity herein shall not apply to the extent such Loss directly arises as a result of AlixPartners' Parties gross negligence or willful misconduct. The Company shall pay Losses as incurred, including reasonable legal fees and disbursements of counsel. If, in the opinion of counsel, representing both Parties in the matter covered by this indemnification creates a potential conflict of interest, the AlixPartners Parties may engage separate counsel to represent them at the Company's expense.

The Company's indemnification obligations in this Section shall be primary to, and without allocation against, any similar indemnification obligations that AlixPartners may offer to its personnel generally.

### **Section 9. Non-Solicitation of Employees**

The Company acknowledges and agrees that AlixPartners has made a significant monetary investment recruiting, hiring and training its personnel. During the term of the Agreement and for a period of one year after its termination or expiration (the "Restrictive Period"), the Company agrees not to directly or indirectly solicit the employment of any of AlixPartners' Partner & Managing Directors, Partners, Directors, or other employees/contractors who performed services under the Agreement or whom the Company or its Affiliates had interactions with as a result of the services provided under the Agreement. The following shall not be a violation of this section: (i) general solicitations, or recruitment through advertisements, job boards, websites, or other similar channels not targeted at AlixPartners personnel, or (ii) hiring former AlixPartners personnel who have not been employed by AlixPartners for a period of six (6) months prior to being contacted by the Company.

If during the Restrictive Period the Company directly or indirectly solicits away, hires or contracts with any of AlixPartners' Partner & Managing Directors, Partners, Directors, or other employees/contractors in violation of the preceding paragraph, the Company agrees to pay to AlixPartners as liquidated damages and not as a penalty the total cash compensation (salary plus any cash bonuses) paid to such person during the preceding twelve months. The Company acknowledges and agrees that liquidated damages in such amounts are (x) fair, reasonable and necessary under the circumstances to reimburse AlixPartners for the costs of recruiting, hiring and training its employees as well as the lost profits and opportunity costs related to such personnel, and to protect the significant investment that AlixPartners has made in its Partner & Managing Directors, Partners, Directors, and other employees/ consultants; and (y) appropriate due to the difficulty of calculating the exact amount and value of that investment.

The provisions of this section shall apply except to the extent the provisions conflict with applicable law.

### **Section 10. Governing Law and Arbitration**

The Agreement is governed by and shall be construed in accordance with the laws of the State of New York with

respect to contracts made and to be performed entirely therein and without regard to choice of law or principles thereof.

Any controversy or claim arising out of or relating to the Agreement, or the breach thereof, shall be settled by arbitration. Each Party shall appoint one non-neutral arbitrator. The two party arbitrators shall select a third arbitrator. If within 30 days after their appointment the two party arbitrators do not select a third arbitrator, the third arbitrator shall be selected by the American Arbitration Association (AAA). The arbitration shall be conducted in New York, New York under the AAA's Commercial Arbitration Rules, and the arbitrators shall issue a reasoned award. The arbitrators may award costs and attorneys' fees to the prevailing Party. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

Notwithstanding the foregoing, any Party may proceed directly to a court of competent jurisdiction to enforce the terms of the Agreement for any claim in connection with (i) the non-payment of Fees or expenses due under the Agreement, or (ii) the non-performance of obligations under the Indemnification section of these Terms. For the purposes of this paragraph, the Parties expressly consent to the jurisdiction of all Federal and state courts located in New York, New York.

In any court proceeding arising out of the Agreement, the Parties hereby waive any right to trial by jury.

**Equitable Remedies.** Each Party acknowledges and agrees that money damages alone may not be an adequate remedy for a breach of the Agreement. Each Party agrees that the non-breaching Party shall have the right to seek a restraining order and/or an injunction for any breach of the Agreement.

### **Section 11. Termination and Survival**

The Agreement may be terminated at any time by ten days' written notice by one Party to the other; provided, however, that notwithstanding such termination AlixPartners will be entitled to any Fees and expenses due under the provisions of the Agreement (for fixed fee engagements, fees will be pro rata based on the amount of time completed). Such payment obligation shall inure to the benefit of any successor or assignee of AlixPartners.

Additionally, unless the Agreement is terminated by the Company due to AlixPartners' material breach (and such material breach continues after 30 days' written notice thereof and opportunity to cure) AlixPartners shall remain entitled to the success fee(s) or completion fee(s), if any, that otherwise would be payable during the 12 months after the date of termination of the Agreement.

Sections 2, 4, 5, 7, 8, 9 10, 11, 12, 13, and 14 of these Terms, the provisions of Schedule 1 and the obligation to pay accrued fees and expenses shall survive the expiration or termination of the Agreement.

### **Section 12. General**

**Force Majeure.** "Force Majeure Event" means any action, omission, act, event or circumstance which is beyond the reasonable control of AlixPartners and which prevents AlixPartners from performing any of its obligations under the Agreement, including failure to meet any standard of

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performance.

If a Force Majeure Event occurs, AlixPartners will, as soon as reasonably practicable, notify the Company of its occurrence, nature and the anticipated impact it will have on AlixPartners' ability to perform its obligations under the Agreement and AlixPartners will have no liability in respect of the non-performance of such obligations during the continuation of the Force Majeure Event and for such time after its ends as is reasonably necessary for AlixPartners to recommence its affected performance under the Agreement.

**Anti-Money Laundering Compliance.** AlixPartners is obliged to and shall comply with certain regulations pertaining to its activities, including client take-on and the services contemplated during this engagement (for example UK, US and European anti-money laundering regulations as well as economic sanctions regulations administered by OFAC and/or the Department of State in the US). The Company acknowledges and agrees that AlixPartners will conduct customer due diligence checks at the outset of the business relationship and periodically thereafter, which may involve verifying the identity of the Company, the beneficial owners of the Company, or their associated persons and entities, as well as other persons and entities with which AlixPartners is dealing in connection with this engagement. In that context, AlixPartners may request such information and documentation as is required for these purposes and AlixPartners shall retain all information and documentation provided in accordance with applicable laws and its document retention policy, as amended from time to time.

**Anti-Bribery and Corruption.** The Parties shall comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption (including but not limited to the Bribery Act 2010). Each Party shall notify the other immediately if it has reason to suspect that any breach of the foregoing has occurred, is occurring or is likely to occur in connection with the Agreement, its subject matter or the receipt or payment (as the case may be) of any moneys from or by or on behalf of the Company.

If either Party (the "Defaulting Party") breaches this section, the other Party (the "Non-Defaulting Party") may, notwithstanding any other terms of the Agreement terminate the Agreement and may recover from the Defaulting Party any loss or damage suffered by the Non-Defaulting Party resulting from such termination.

The rights and remedies under this section entitled 'Anti-Bribery and Corruption' shall survive acceptance and payment of any moneys and be without prejudice to any other right or remedy available to the Non-Defaulting Party.

**Severability.** If any provision(s) of the Agreement are, in any jurisdiction, found to be invalid or unenforceable, that provision or parts thereof (as the case may be) will to that extent and in that jurisdiction be deemed not to form part of the Agreement and the enforceability of the remainder will not be affected in such jurisdiction.

**Entire Agreement.** The Agreement, including the letter, the Terms and the schedule(s), contains the entire understanding of the Parties relating to the services and supersedes any and all prior proposals, communications, agreements, understandings, representations, or estimates among the Parties with respect to such services.

Each Party agrees that in entering into the Agreement other than as expressly included in the Agreement it does not rely on any statement, representation, undertaking, agreement or understanding of any nature made by any person. The Agreement, including the letter, the Terms and the schedule(s), may not be amended or modified in any respect except in a writing signed by the Parties.

**Related Matters.** If an AlixPartners Party is required by applicable law, legal process or government action to produce information or testimony as a witness with respect to the Agreement, the Company shall reimburse AlixPartners for any professional time and expenses (including reasonable external and internal legal costs and e-discovery costs) incurred to respond to the request, except in cases where an AlixPartners Party is a party to the proceeding or the subject of the investigation.

**Joint and Several Liability.** If more than one counterparty enters into the Agreement with AlixPartners, the liability of each such counterparty shall be joint and several, and AlixPartners may take action against, or release or compromise the liability of, any counterparty, without affecting the liability of any other counterparty.

**Third-Party Beneficiaries.** Except where expressly stated to be for the benefit of Affiliates of AlixPartners (and such Affiliates will acquire rights to enforce the relevant terms), a person who is not a party to the Agreement has no rights to enforce any terms of the Agreement.

**Notices.** All notices required or permitted to be delivered under the Agreement shall be sent, if to AlixPartners, to:

AlixPartners, LLP  
 2000 Town Center, Suite 2400  
 Southfield, MI 48075  
 Attention: Chief Legal Officer

and if to the Company, to the address set forth in the Agreement, to the attention of the Company's General Counsel, or to such other name or address as may be given in writing to AlixPartners. All notices under the Agreement shall be sufficient only if delivered by overnight mail. Any notice shall be deemed to be given only upon actual receipt.

### Section 13. Bankruptcy Related Matters

Notwithstanding anything to the contrary in these Terms, in the event the Company files for protection under the United States Bankruptcy Code, the following provisions will prevail:

The Company shall promptly apply to the Bankruptcy Court for approval of the Company's retention of AlixPartners under the terms of the Agreement. The form of retention application and proposed order shall be reasonably acceptable to AlixPartners. AlixPartners shall have no obligation to provide any further services if the Company becomes a debtor under the United States Bankruptcy Code unless AlixPartners' retention under the terms of the Agreement is approved by a final order of the Bankruptcy Court reasonably acceptable to AlixPartners. The Company shall assist, or cause its counsel to assist, with filing, serving and noticing of papers related to AlixPartners' fee and expense matters.

The Company and AlixPartners agree that the Bankruptcy Court shall have exclusive jurisdiction over any and all

<b>AlixPartners, LLP</b> General Terms and Conditions
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matters arising under or in connection with the Agreement.

AlixPartners will have the right to obtain independent legal counsel to obtain advice with respect to its services under the Agreement. The Company will reimburse AlixPartners for the reasonable fees and expenses of such independent legal counsel, following approval by the Bankruptcy Court.

AlixPartners acknowledges that, during the pendency of any Bankruptcy Court approved retention, the indemnification provisions and Liability Cap set forth above may be subject to modification as stated within the Bankruptcy Court's retention order.

Due to the ordinary course and unavoidable reconciliation of fees and submission of expenses immediately prior to, and subsequent to, the date of filing, AlixPartners may have incurred but not billed fees and reimbursable expenses which relate to the prepetition period. AlixPartners will seek Bankruptcy Court approval to apply the retainer to these amounts.

If AlixPartners finds it desirable to augment its consulting staff with independent contractors (an "I/C") in this case, (i) AlixPartners will file, and require the I/C to file, 2014 affidavits indicating that the I/C has reviewed the list of the interested parties in this case, disclosing the I/C's relationships, if any, with the interested parties and indicating that the I/C is disinterested; (ii) the I/C must remain disinterested during the time that AlixPartners is involved in providing services on behalf of the Company; and (iii) the I/C must represent that he/she will not work for the Company or other parties in interest in this case during the time AlixPartners is involved in providing services to the Company. AlixPartners' standard practice is to charge for an I/C's services at the rate equal to the compensation provided by AlixPartners to such I/C.

**Case Management Platform.** AlixPartners may, where applicable, grant the Company usage of AlixPartners' proprietary suite of digital tools to enable Bankruptcy Court reporting (the "Case Management Platform"). AlixPartners will grant the Company access and use of the Case Management Platform to pre-approved authorized users at the Company (as agreed to by the parties). The Company understands the Case Management Platform is AlixPartners Intellectual Property as that term is defined in the Intellectual Property Section of the Terms. The Company shall not acquire any other interest in the Case Management Platform other than the limited non-transferable ability to access and use the Case Management Platform. When AlixPartners is providing the Company access to the Case Management Platform, the usage charges below will apply in addition to the Fees set forth on Schedule 1.

<b>Number of Authorized Users</b>	<b>Monthly Fee</b>
1-25	USD 20,000
26-50	USD 35,000
51-75	USD 45,000
76-100	USD 50,000
Over 100	USD 65,000

The Case Management Platform usage fee will be invoiced in accordance with the Billing, Payments, and Taxes Section of the Terms.

Any custom modification or enhancement requests from the Company regarding the Case Management Platform may be performed at an additional cost to the Company (as agreed by the parties). Any such modifications or enhancements will be billed at AlixPartners' standard hourly rates.

#### **Section 14. Data Protection**

To the extent applicable, the Company and AlixPartners shall comply with the terms of the AlixPartners Data Protection Addendum (located at: <https://www.alixpartners.com/data-protection-addendum/>), which form part of the Agreement. The Data Protection Schedule of the Agreement shall apply to the Data Protection Addendum.